



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

October 9, 1996

Robert D. Wyatt, Esquire
BEVERIDGE & DIAMOND
One Sansome Street, Suite 3400
San Francisco, CA 94104-4438

Re: Catalina Yachts, Inc.
Docket No. EPCRA-09-94-0015

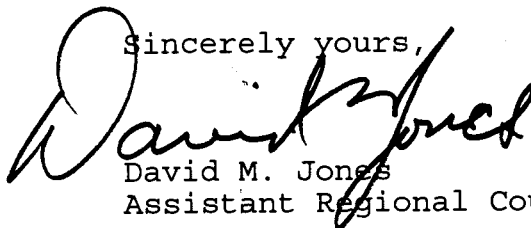
Dear Mr. Wyatt:

You will recall that our letter of May 22, 1996, transmitted our proposed Stipulation of Facts to be entered on the record in the subject administrative enforcement action. Accompanying this letter is our latest version of the proposed Stipulation of Facts for your review.

In the enclosed Stipulation we have modified the earlier version to emphasize that the Form Rs with which the action is concerned cover the Woodland Hills facility. Fact number 32 has been added to show that the Morgan Division of the subject corporation is not involved in the subject administrative enforcement action because our files show that they have submitted their Form Rs in a timely manner.

As discussed during our recent telephone conversations, I believe that a stipulation of the facts as we propose will go a long way in disposing of this action before the hearing takes place and will benefit both sides. I urge you to review the enclosed document at your earliest opportunity and if you find the proposed stipulation acceptable, execute same in the place provided and return the executed document to me. Upon receipt I will sign the document, file the original document with the Regional Hearing Clerk and return a fully executed copy to you for your files.

Sincerely yours,



David M. Jones
Assistant Regional Counsel

Enclosure

CERTIFICATE OF SERVICE

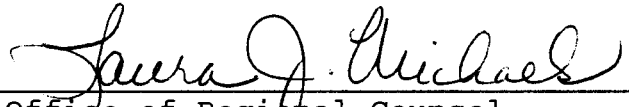
I hereby certify that the original copy of the foregoing Stipulation of Facts was filed with the Regional Hearing Clerk, Region 9 and that a copy was sent by First Class Mail to:

Spencer T. Nissen
Administrative Law Judge
Office of Administrative Law Judges
United States Environmental Protection Agency
401 M Street, Room 3706 (1900)
Washington, D. C. 20460

and to:

Robert D. Wyatt, Esquire
Eileen M. Nottoli, Esquire
BEVERIDGE & DIAMOND
One Sansome Street, Suite 3400
San Francisco, California 94105

10-10-96
Date


Office of Regional Counsel
U. S. Environmental Protection
Agency, Region 9

FILED

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**ENVIRONMENTAL PROTECTION AGENCY
REGION IX
HEARING CLERK**

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In re:

CATALINA YACHTS, INC.,

Respondent.

Docket No. EPCRA-09-94-0015

STIPULATION OF FACTS

The parties to this administrative enforcement action hereby stipulate to the following facts:

1. The Respondent is Catalina Yachts, Inc., a designer and builder of modestly priced boats.
2. Catalina Yachts, Inc. is a California corporation.
3. The Respondent is a person as defined by Section 329(7) of EPCRA.
4. The Respondent is an owner or operator of a facility as defined by Section 329(4) OF EPCRA which is located at 21200 Victory Boulevard, Woodland Hills, CA 91364 (hereinafter "Facility").
5. The Facility employs ten or more full-time employees as

defined by 40 C.F.R. § 372.3.

6. The Facility is classified in Standard Industrial Classification 3732.

7. An authorized EPA representative inspected the Facility on or about November 15, 1993.

8. The November 15, 1993, inspection of the Facility revealed that in calendar year 1988 and 1989 Respondent otherwise used acetone, CAS No. 67-64-1, in excess of 10,000 pounds.

9. Acetone is a toxic chemical, which, at the time of the inspection was listed under 40 C.F.R. § 372.65.

10. Respondent failed to submit a Form R for calendar years 1988 and 1989 for acetone to the Administrator, U.S. Environmental Protection Agency and to the State of California, by July 1 of 1989 and 1990.

11. The November 15, 1993, inspection of the Facility revealed that in calendar year 1988 Respondent processed styrene, CAS No. 100-42-5, in excess of 50,000 pounds.

12. The November 15, 1993, inspection of the Facility revealed that in calendar years 1989, 1990, 1991 and 1992, Respondent processed styrene, CAS No. 100-42-5 in excess of 25,000 pounds.

13. Styrene is a toxic chemical listed under 40 C.F.R. § 372.65.

14. Respondent failed to submit a Form R for the Facility for calendar years 1988, 1989, 1990, 1991 and 1992, for styrene to the Administrator, U.S. Environmental Protection Agency and to the State of California, by July 1 of 1989, 1990, 1991, 1992 and 1993.

15. The Order Granting Motion For Accelerated Decision As To Liability dated January 10, 1995, established that Respondent has violated EPCRA as alleged in the Complaint and that the only issue remaining for hearing is the amount of the civil penalty to be assessed.

16. Respondent had annual sales of approximately \$38 million at the time that the Complaint was filed.

17. Respondent had more than fifty employees at the time that the Complaint was filed.

18. The proposed civil penalty set forth in the Complaint was calculated in accordance with the August 10, 1992, Enforcement Response Policy for Section 313 and Section 6607 of the Pollution Prevention Act (1990) (hereinafter "ERP").

19. In calculation of the civil penalty in this matter, EPA took into account the nature, circumstances, extent and gravity of the violation(s) and, with respect to the violator, ability to pay, effect on ability to continue in business, history of prior such violations, the degree of culpability and such other matters as justice may require.

20. The purpose of the ERP is to ensure that the U.S. Environmental Protection Agency takes appropriate enforcement actions in a fair and consistent manner as well as to ensure that the enforcement response is appropriate for the violation.

21. In calendar years 1988 and 1989, Respondent used more than ten times the 10,000 pound threshold for otherwise use of acetone.

22. Respondent submitted the Form Rs for the Facility for calendar years 1988 and 1989, for acetone greater than one year after July 1, 1989 and July 1, 1990, respectively.
23. In calendar year 1988, Respondent processed more than ten times the 50,000 pound threshold for styrene.
24. In calendar year 1989, 1990, 1991 and 1992, Respondent processed more than ten times the 25,000 pound threshold for styrene at the Facility.
25. Respondent submitted the Form R for the Facility for calendar year 1989, for styrene greater than one year after July 1, 1990.
26. Respondent submitted the Form R for the Facility for calendar year 1990, for styrene greater than one year after July 1, 1991.
27. Respondent submitted the Form R for the Facility for calendar year 1991, for styrene greater than one year after July 1, 1992.
28. Respondent submitted the Form R for the Facility for calendar year 1992, for styrene greater than one year after July 1, 1993.
29. Respondent is currently in compliance with EPCRA.
30. Respondent submitted the appropriate forms for the Facility for acetone to the State of California for 1988, 1989 and for styrene for 1988, 1989, 1990, 1991 and 1992.
31. Respondent does not have a history of past violations of EPCRA either at the Facility.

32. Respondent's Morgan Division located at 7200 Bryan Dairy Road, Largo, Florida 34747-1504 is not involved in this administrative enforcement action because Complainant's records show that Form Rs were submitted for acetone and styrene as required by law.

33. Region 9 has conducted outreach workshops under EPCRA. Notice of the workshops is mailed to companies that may be required to report under EPCRA. Respondent was on the mailing list for these mailings at least in 1987 and 1993.

34. Information contained in the toxic chemical release inventory is used by both EPA and local communities for purposes of emergency planning and pollution prevention planning.

35. Acetone was delisted by the Final Rule published at 60 Fed. Reg. 31643, effective June 16, 1995.

Dated: October 9, 1996.

U. S. Environmental Protection Agency,
Region 9

By: _____

Catalina Yachts, Inc.

By: _____

Robert D. Wyatt, Esquire
Beveridge & Diamond